

## Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY LONDON IMMEDIATE

INFO AMEMBASSY PRETORIA IMMEDIATE

AMCONSUL CAPE TOWN

AMCONSUL DURBAN

AMCONSUL JOHANNESBURG

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E.O. 11652: N/A

TAGS: TBIO, SENV, EFIS, SF

SUBJECT: NAMIBIAN FUR SEALS

REFS: (A) STATE 73771; (B) STATE 87976; (C) CAPETOWN 569;

(D) STATE 129970; (E) CAPETOWN 791

1. REFTELS, WHICH ARE BEING REPEATED TO YOU, CONCERN A  
CASE BEFORE THE COMMERCE DEPARTMENT IN WHICH A SOUTH CAROLINA  
COMPANY (FOUKE) IS SEEKING A WAIVER OF CERTAIN RESTRICTIONS

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IMPOSED BY THE MARINE MAMMAL PROTECTION ACT ON THE IMPORT

OF FURSKINS. FOUKE WANTS TO IMPORT BABY FUR SEAL SKINS FROM SOUTH AFRICA FOR PROCESSING. ONE OF THE IMPORTANT ISSUES IN THE CASE IS WHETHER A FEW ISLANDS OFF THE COAST OF SOUTH-WEST AFRICA ARE PART OF SOUTH AFRICAN OR OF NAMIBIAN (SOUTH-WEST AFRICAN) TERRITORY. DEPT HAS BEEN ASKED BY NATIONAL MARINE FISHERIES SERVICE (OF COMMERCE DEPT) AND FOUKE'S COUNSEL FOR OFFICIAL DEPT VIEW ON TERRITORIAL STATUS OF THE ISLANDS. QUESTION APPARENTLY OF GREAT URGENCY NOW BECAUSE OF HARVESTING AND SALES SCHEDULES IN SOUTH AFRICA, AND PROCEDURAL STATUS OF FOUKE'S PETITION BEFORE NMFS. DEPT HAS BEEN UNABLE FROM PRINTED SOURCES AND INQUIRIES WITH SOUTH AFRICAN GOVT. TO MAKE DETERMINATION ON ITS OWN. EMBASSY ACCORDINGLY REQUESTED TO INQUIRE ASAP WITH FCO, ON BASIS OF INFORMATION CONTAINED PARAS 2-3 BELOW, ABOUT UK'S OPINION

ON THE ISLANDS' TERRITORIAL STATUS. IT IS AS IMPORTANT FOR US TO KNOW THE REASONS (ESPECIALLY DOCUMENTARY SOURCES) THAT SUPPORT UK'S OPINION, AS TO KNOW THE OPINION ITSELF.

2. THE ISLANDS AT ISSUE ARE LONG ISLAND, SINCLAIR ISLAND, AN; ALBATROSS ROCK, LYING ROUGHLY BETWEEN LUDERITZ AND ALEXANDER BAYS. ALTHOUGH CLAIMED BY HMG BY LETTERS PATENT OF 27 FEB. 1867 AND CAPE COLONY PARLIAMENT ANNEXATION OF 1874, THE ISLANDS WERE INCLUDED IN ANGLO-GERMAN BOUNDARY NEGOTIATIONS ABOUT SW AFRICA THAT RESULTED IN A PROTOCOL OF 15 JULY 1886. (TERMS OF REFERENCE FOR THE NEGOTIATIONS CONTAINED IN BRITISH & FOREIGN STATE PAPERS VOL. 75 PP. 545-553; TEXT OF PROTOCOL IN VOL. 77 P. 1042.) OUR QUESTIONS ARE: (A) WAS THE CAPE COLONY PARLIAMENT'S ANNEXATION OF THE ISLANDS IN 1874 EFFECTIVE TO GIVE SOVEREIGNTY OVER THEM TO THE CAPE COLONY? (B) DID THE PROTOCOL OF 15 JULY 1886, OR ANY UNDERSTANDING BETWEEN GERMANY AND GREAT BRITAIN THAT PRECEDED THAT PROTOCOL, TRANSFER SOVEREIGNTY OVER THE ISLANDS TO GERMANY? (C) WERE THE ISLANDS GERMAN PROTECTORATE TERRITORY WHEN THE LEAGUE OF NATIONS MANDATE OVER SOUTH-WEST AFRICA WAS CREATED IN FAVOR OF SOUTH AFRICA IN 1920?

3. DEPT UNDERSTANDS THROUGH LAWYER FOR ONE OF THE PARTIES TO THE CASE THAT A UK CONSERVATION GROUP (NAME UNKNOWN) LIMITED OFFICIAL USE

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THROUGH ITS MP (NAME UNKNOWN) INFORMALLY REQUESTED FCO OPINION SOMETIME IN MAY ABOUT THE ISLANDS' TERRITORIAL STATUS. ANTHONY PARRY, ASSISTANT LEGAL ADVISER IN FCO, REPORTEDLY GAVE AN INFORMAL FCO OPINION THAT THE ISLANDS WERE NAMIBIAN RATHER THAN SOUTH AFRICAN.

4. DETAILS OF STORY REPORTED PARA 3 HAVE SUGGESTED TO US THAT FCO MAY BE RELUCTANT TO MAKE OFFICIAL PUBLIC STATE-

MENT OF ITS VIEWS. IF SO, EMBASSY MAY ASSURE FCO THAT  
DEPT NEEDS INFORMATION ONLY FOR INTERNAL DECISION AND, IF  
FCO DESIRES, WILL NOT PUBLICLY CITE FCO OPINION. KISSINGER

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